

July 31, 2020

The Honorable Jesse M. Furman
Thurgood Marshall U.S. Courthouse
United States District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: Plaintiffs' joint letter regarding intent to seek relief in *State of New York, et al. v. Trump, et al.*, 20-CV-5770 (JMF), and *New York Immigration Coalition, et al. v. Trump, et al.*, 20-CV-5781 (JMF).

Dear Judge Furman,

Plaintiffs in these related cases write to advise the Court that because of the time sensitivities¹ involved in this matter, Plaintiffs intend to file a motion seeking relief on certain of their claims before the date of the initial pretrial conference that the Court has scheduled for August 13.

Plaintiffs are aware that per Rule 3(B) of the Court's Individual Rules and Practices in Civil Cases, the Court does not require pre-motion conferences except for discovery disputes. The Court's Order dated July 28, 2020, however, identifies a series of issues for discussion at the initial pretrial conference, including issues that go to the timing for motions practice; whether certain of Plaintiffs' claims can be litigated on a separate, faster track than other claims; and the most efficient means to present Plaintiffs' claims for resolution by the Court. 20-CV-5770, ECF No. 24. Mindful of the Court's "inherent authority to manage [its] docket and courtroom[] with a view toward the efficient and expedient resolution of cases," *Dietz v. Bouldin*, 136 S. Ct. 1885, 1892-93 (2016), Plaintiffs advise the Court of their intent to move for relief on or before August 10 in the event the Court wishes to accelerate the initial pretrial conference to permit discussion of scheduling and related matters.

In addition, this Court's Rule 3(C)(i) provides that absent good cause, the Court will not ordinarily have summary judgment practice in non-jury cases. Plaintiffs believe good cause exists for the Court to permit partial summary judgment practice because certain of Plaintiffs' claims present legal questions that can be resolved on undisputed facts with no need for fact-finding.

¹ The already-pressing nature of this matter is heightened by reports yesterday and today that the Census Bureau will conclude field operations on September 30, 2020—a full month earlier than the prior October 31 deadline. Hansi Lo Wang, *Census Door Knocking Cut a Month Short Amid Pressure to Finish Count*, NPR (July 30, 2020), <https://www.npr.org/2020/07/30/896656747/when-does-census-counting-end-bureau-sends-alarming-mixed-signals>. Plaintiffs in both actions have alleged that Defendants' announcement of their decision to exclude undocumented immigrants from the apportionment count will deter immigrants and their families from responding to the decennial census. The Census Bureau's apparent change to the deadline for concluding field operations truncates even further the time for any ultimate remedy in these actions to be effective in abating that deterrent.

At the Court's discretion, Plaintiffs are prepared to appear for an initial pretrial conference on any date before August 13, and to submit a letter addressing the issues identified in the Court's July 28 Order by any new deadline the Court may set.

Respectfully submitted,

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***Motion for admission pro hac vice
forthcoming*

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